

REMARKS

Claims 91-113 are pending and at issue in the application with claims 91 and 103 being independent claims. Claims 91 and 103 have been amended. As a result, 2 independent claims remain in the application as previously paid for, and 23 total claims remain in the application as previously paid for. A check in the amount of \$120.00 is provided herewith to cover the one month extension of time under 37 C.F.R. 1.17. The applicant believes no additional fee is due. However, the commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 13-2855. Reconsideration and withdrawal of the rejections in view of the remarks below is respectfully requested.

The applicant respectfully traverses the rejections of claims 91-96, 98-100, 103-108, 110 and 111 as unpatentable over Acres (U.S. Patent No. 6,254,483) in view of Burns et al. (U.S. Patent No. 6,254,483). The applicant further traverses the rejections of claims 101, 102, 112 and 133 as unpatentable over Acres in view of Burns et al. and further in view of Miura (U.S. Patent No. 6,354,943), and the rejections of claims 97 and 109 as unpatentable over Acres in view of Burns et al. and further in view of Weiss (U.S. Patent No. 5,611,730).

Independent claim 91 is directed to a gaming unit that includes (1) a time generator that generates a time signal indicative of a time of day, and (2) a controller programmed to change a minimum bet to be inputted via the input device for the video gambling game in response to the time signal.

Independent claim 103 is directed to a gaming unit that includes (1) a time generator that generates a time signal indicative of a time of day, and (2) a controller programmed to change a denomination for the deposit of currency required to begin the video gambling game in response to the time signal.

The applicant submits that claims 91 and 103 are not rendered obvious by Acres in view of Burns et al. The action does not establish a *prima facie* case of obviousness, because Acres and Burns et al. fail to disclose all of the limitations of claims 91-113.

The Acres patent generally discloses varying configuration parameters, such as game speed, payback percentage and accrual of wagers in a bonus pool, in response to monitored variables, such as time, level of player play or rate of overall play in order to influence the net

cost to the player per unit time for playing casino games. (See, column 6, lines 13-62; column 9, lines 4-7). The effective wager per unit time is a function of payback percentage and game speed. (See, column 2, lines 35-55). While Acres changes various parameters in response to time in order to influence the wager per unit time, those parameters do not include a minimum bet to be inputted via an input device or a denomination for the deposit of currency required to begin a game. In particular, Acres varies the game speed, payback percentage or accrual of wagers in response to time. The minimum bet or denomination remains the same regardless of the time of day, month, year, etc.

Indeed, the Office action acknowledges that Acres does not disclose a controller changing a minimum bet for a video gambling game in response to a time signal. (See Office action dated February 27, 2006, page 3). However, contrary to the assertions of the Office action, Acres does not disclose changing the level of play. Instead, the level of play in Acres is a variable/predetermined criterion, along with time and wagering level, which may be used to change game parameters, and is not a parameter itself. (See column 6, lines 35-62). In other words, a parameter changes in response to the level of play, and not vice versa. The level of play in Acres is not changed based on time.

While the Office action attempts to reason that the level of play may be the rate over a selected time period, which may be each handle pull or wager, such disclosure is not found anywhere within Acres. Instead, the Office action engages in mere speculation and conjecture, and does not provide any disclosure or offer any support for this contention. Further, such an interpretation renders the term “level of play” meaningless. As referenced in the Office action, level of play refers to a rate. If handle pulls or wagers is the selected time period for the level of play (i.e., the point of reference), then *each* handle pull or wager cannot be the selected time period because at least two points of reference are required in order to establish a rate.

Nonetheless, the Office action’s assertions still do not meet the claimed limitations. In particular, even if the level of play changes, only the accrual of wagers, payback percentage or game speed change. (See column 6, lines 55-62). The minimum bet and denomination remain the same, and Acres does not disclose otherwise. Still further, even assuming the level of play changes for each handle pull or wager, such changes are in response to player actions (i.e., handle pull or wager) and not in response to a time signal

generated by a time generator, as recited by claims 91-113. Accordingly, Acres does not disclose changing a minimum bet to be inputted via an input device in response to a time signal as recited by claims 91-102 or changing a denomination for the deposit of currency required to begin a game in response to a time signal as recited by claims 103-113, even under the assertions of the Office action.

Burns et al. discloses a coinless and paperless slot machine wherein a wager limit may be changed at any time. However, contrary to the assertion of the Office action, Burns et al. does not disclose or suggest changing the minimum bet or the denomination in response to a time signal. The portion of Burns et al. cited in the Office action states only that “it is possible to change the wager limits of any or all of the individual slot machines. Thus, the minimum wager of the slot machines can be changed at any time. It would also be possible to allow the player to select the wager limit.” The cited portion does not specify how the wager limit is changed, merely that the wager limit is *capable* of being changed. However, the cited portion must be read in the context of the entire reference and not in a vacuum. (See MPEP 2141.02(VI) “A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” (emphasis in original)). When reviewing the reference as a whole, Burns et al. discloses offering the player the choice of different minimum wagers. (See column 5, lines 16-31; Figs. 5a and 5b). In other words, Burns et al. allows the minimum wager of the slot machine to be changed at any time by providing a player with the opportunity to select the minimum wager. Burns et al. does not disclose changing a minimum bet to be inputted via an input device in response to a time signal as recited by claims 91-102 or changing a denomination for the deposit of currency required to begin a game in response to a time signal as recited by claims 103-113.

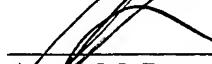
As a result, neither Acres nor Burns et al. disclose or suggest changing a minimum bet to be inputted via an input device in response to a time signal as recited by claims 91-102 or changing a denomination for the deposit of currency required to begin a game in response to a time signal as recited by claims 103-113. It is clear that a *prima facie* case of obviousness cannot be established where all the limitations of a claimed combination are not taught or suggested by the prior art. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See also MPEP 2143.03.

Accordingly, the applicant respectfully submits that amended independent claims 91 and 103 are in allowable form. Further dependent claims 92-102 and 104-113 which are dependent on the aforementioned independent claims are also submitted to be in allowable form. In light of the foregoing, the prompt issuance of a notice of allowance is respectfully solicited. Should the Examiner have any questions, the Examiner is respectfully invited to telephone the undersigned.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive
6300 Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300

By:


Aaron M. Peters
Registration No.: 48,801
Attorney for Applicant

June 27, 2006